

**Bountiful City**  
**Administrative Committee Minutes**  
**November 16 2009**  
**5:00 P.M.**

Present: Chairman Aric Jensen, Assistant City Engineer Lloyd Cheney, Committee Member John "Marc" Knight, Committee Member Dave Badham, Assistant Planner Dustin Wright and Recording Secretary Cindy Gruendell.

1. Chairman Jensen opened the meeting at 5:02 p.m. and everyone present introduced themselves. Mr. Jensen explained that the voting members for these items would be himself, Mr. Knight and Mr. Badham and that Mr. Cheney would be representing the Engineering department.

2. Consider approval of minutes for November 9, 2009.

Mr. Knight made a motion to approve the minutes for November 9, 2009 as written. Mr. Jensen seconded the motion. Motion passed 2 – 0 with Mr. Badham abstaining as he was not present at that meeting.

3. PUBLIC HEARING - Consider a variance to build on slopes over 30% at 993 East Highland Drive, applicants, Cory and Kara Chapman.

Mr. Jensen explained the process for a public hearing.

Cory and Kara Chapman, applicants were present. Dustin Wright presented the staff report. The property is located in the Residential Foothill (R-F) zone. The applicants are seeking a variance from section 14-4-102 so that they can build on slopes over 30%, and have cuts and/or fills over 10 feet in height.

The applicants have not followed the approved site plan, and have built on unusable land and have made cuts and/or fills exceeding 10 feet without a variance.

Ordinance 14-4-102:

USABLE AND UNUSABLE LAND: In the R-F subzone, land with a slope of less than 30% is usable land, and land with a slope of 30% or greater is unusable for any purpose, except as set forth in 14-4-101.

Literal enforcement of the ordinance would not create an undue hardship because the

original site plan for this property determined that the applicants could construct a reasonably sized home that would not disturb land on 30% slopes or require cuts and/or fills exceeding 10 feet.

Staff recommends denial of a variance because the applicant doesn't meet all the criteria for a variance. The applicant demonstrated on their original site plan that they could build their home without a need for a variance. Staff recommends to the Committee to require the applicants to remove improvements made on unusable land as well as repair all cuts and/or fills exceeding 10 feet to comply with the City Ordinance.

Mr. Jensen asked Mr. Cheney to discuss the original approval, what the current state of the property is, and what the engineering implications are.

Mr. Cheney presented the original approved site plan for the home and an aerial photo taken in 2003, prior to construction on the site. The driveway and disturbed areas on the lot were discussed. The site plan as submitted shows the house staying within the building area, with a covered patio in the back and a couple of small retaining walls.

In October, 2009, the Engineering Department was in the area on a different matter and the retaining on the Chapman property was discovered. Mr. Cheney presented several pictures of the retaining that has been done on the property. The Chapmans were told to stop working on the house and to provide additional survey information to the City. The information provided to the City showed a significant difference from the original site plan and what was actually done on the property. Mr. Cheney presented a contour map showing areas over 30%. Mr. Cheney discussed the changes to the original site plan: a 5 degree rotation of the house, new porch/food storage, the retaining to the east of the property, and stairs built in 40% slope areas. The most significant issues are in the rear of the property: retaining walls over 10ft tall, retaining in areas of 30% slopes, and fills greater than 10 ft.

Mr. Chapman introduced his wife Kara Chapman, contractor Brad Miller and engineer Lynn Carlson. Mr. Chapman explained that he owns Rockscapes and does a lot of work in Bountiful. Mr. Chapman conceded that he made a mistake in not getting the necessary permits for construction. Mr. Chapman explained to the committee that over that last year he had several personal and work issues that complicated getting the permits. It was not his intention to let this go without asking for a permit. He knew in the beginning that he was going to want to do more retaining and would have to apply for a variance.

Mr. Chapman discussed the project, the material used and the rock walls. He explained that the walls are currently 10 ft tall. When Mr. Cheney was at the site the walls were in the process of being built and the base was exposed at that time. He explained that because of the steepness of the lot, the rock walls had to be changed to support the patio. He mentioned that he owns the lot to the east and the rock wall that was built on that site was to provide access to that lot.

Mr. Chapman indicated that on the approved site plan a portion of his house was in the 30% slopes and the City did not required a variance for that.

Mr. Chapman said that he is trying to build a green house and this home will be in the LEED Parade of Homes. He explained how he obtained some of the material for this house. He hired an excavator to dig the hole for the house and he must have made that 5 degree error. He also buried some trees with the dirt.

Lynn Carlson, the structural engineer on the project, explained to the Committee that if there are any questions about the structural stability of the wall they can be put to rest. When this is settled he will be writing a letter accepting responsibility of the wall.

The public hearing was open for comments:

Scott Balling – Asked the question: How could you ever replace the vegetation if you were to take the walls out?

The public hearing was closed.

Mr. Badham expressed his concern that the applicant knew the importance of a permit and getting a variance is not as obtainable as he might think. If you would have applied before building it would have been more a of team effort to come up with a solution. He asked if there were inspections, photographs or other documentation of how the retaining wall was put in and if there was a Geo-Technical report that established the conditions of the native material.

Mr. Chapman said that he is willing to get a Geo-Technical report and it is his experience that if there was a problem with underground springs they would have found it during excavation.

Lynn Carlson explained that for the times that he has been at the site he has been happy with the work that he did not inspect each lift and that he requested geo grid every two feet but did not inspect it. He has seen it going in when he was at the site. On this project he would require a lower level of inspections but feels comfortable with the wall as constructed.

Mr. Badham discussed with Mr. Chapman about the LEED designation of the home. Mr. Badham also asked why the house was placed at a 5 degree rotation from the original site plan. Mr. Chapman explained that they hired a staking company to do the work and ended up having a problem with them. It was just a mistake by the company and was not intentional.

Mr. Jensen asked where all the dirt on the site come from. Mr. Chapman explained that he hauled in 8 -10 loads of soil from other job sites in the area.

Brad Miller explained that the east side of the house has a 22 ft deep sport court and there

was a huge amount of dirt from that.

Mr. Jensen discussed with the applicant the covered outside deck and how it is being supported. Mr. Chapman explained that changes get made on site as he was building.

Mr. Chapman explained that they set the house more than 100 feet back from the street because it was the best placement on the lot and limited the amount of the house that would be on slopes over 30%, and that several of his neighbor's homes are set back as well. As a coincidence he was able to gain the advantage of being able to put in a secondary driveway into the basketball court.

Mr. Jensen pointed out that Mr. Chapman's neighbor's landscaping stops at the 30% slopes, which matches up with the 30% slopes on the applicant's yard, which is about 40 feet closer than where he pushed his dirt to. He then asked why Mr. Chapman felt that he could go so far beyond that point. Mr. Chapman felt that his neighbor did not landscape more because that was all the yard he wanted at the time. Mr. Jensen reiterated that the 30% slope boundary on both lots matches exactly with the end of landscaping on the neighboring lot.

Mr. Badham said that he would like to continue the item for further on site visits and review. He does not feel comfortable making a recommendation at this time.

Mr. Knight said this a example of citizens saying "what are they doing on the hillside and why did they let this happen". The approved site plan/house could have been built without violating any City Ordinances. This is an abuse of the hillside.

Mr. Jensen stated that as City Planner when he is doing work on his home, he gets all the necessary permits because in his profession that is what is expected of him. With the applicant being a contractor who specializes in retaining walls, it is unexplainable why he did not get the permits on his own property.

Mr. Chapman explained that he knows that he should have got the permits and that he took liberties that he should not have. He made a mistake but felt like he knew what he was doing and that he would build a good wall.

Mr. Badham discussed making the applicant restore or repair the hillside, and not deny or approve the variance without further review.

Mr. Jensen explained that he is concerned that the applicant brought in dirt from other sites. All contractors are supposed to haul their dirt to an approved location, and it appears that the applicant was intentionally trying to make his building site larger.

Mr. Jensen made a motion to continue this item one week, with the instructions to the applicant that he needs to come up with a plan to mitigate the illegal work as much as possible, keeping in mind that he brought in extra soil onto the site that must be removed, and to work with Mr. Cheney to devise the best way to bring the site into compliance as

close as possible.

Mr. Badham seconded the motion and modified it to include that the applicant be required to get a geo-technical study if the Committee's final decision included leaving some of the existing walls in place.

Mr. Jensen reiterated his motion to continue this item one week to allow the applicant and the Engineering Department to come up with a plan that best remediates the situation, and if that remediation involves some of the existing walls remaining that the applicant also get a geo technical report. Mr. Badham seconded the motion. Voting was unanimous.

4. PUBLIC HEARING - Consider an amended site plan for a previously approved variance to build on slopes over 30% at 1738 South Stone Ridge Circle, applicants, Fred Hale.

Fred Hale, applicant and Scott Balling were present. Dustin Wright presented the staff report.

The property is located in the Residential Foothill (R-F) zone. The applicant was granted a variance from the City Ordinances pertaining to cuts and/or fills over 10 feet and to build on slopes greater than 30% at a public hearing on January 29, 2007. In the amended motion to approve the variance, a drawing showing a specific area of disturbance on the site plan was to be included and followed. This area of disturbance identified where cuts and fills over 10 feet and disturbance of slopes over 30 % could occur with the variance. Since that time, cuts, fills and retaining walls outside the approved area of disturbance have occurred. Building and construction of the landscape has been halted and red tagged by the City as a result.

Some of the retaining walls have been constructed differently than shown in the original site plan, without permits and past the limit of disturbance. A path/road has been created that was not part of the site plan along the north-east side to allow access of equipment and vehicles to the rear of the home for construction. Fills along the north side of the home, past the limit of disturbance, have taken place in the heavy oak coverage area shown on the plans. This is a major area of concern due to the lack of stability of the soil and the grade of the slope where it was placed.

Staff recommends to stabilize fills along the north side of the site to the satisfaction of the City Engineer or to remove fills along the north side of the site that occurred past the limit of disturbance. Also, to require that the applicant obtain building permits for all the retaining walls that have been altered from the approved site plan and have them stamped by a licensed engineer and approved by the City Engineer.

Mr. Cheney presented to the Committee photos taken at the site and explained some of the changes made to the site. His biggest concern is the soil below the retaining wall. He explained that the potential harm to the property is low. He also explained that the original approved motion left the limit of disturbance open to the Architect and Engineer.

The level of disturbance in the rear of the site appears to be reasonable for building this house. With the exception of placing the dirt on the north side of the house, he does not have any major concerns.

The public hearing was opened and closed with any comments.

Mr. Hale explained that they plan to revegetate the area on the north side of the house. They have had a geo technical study and engineering done on the retaining walls. The original contractor was let go because he was slow and the budget to complete is gone. He was asked to help his family member finish the project.

Mr. Jensen explained that the original limit of disturbance was not realistic for this size of home.

Mr. Cheney noted that during the original public hearing there were several homeowners from Stoneridge Homeowners Association that were concerned about the disruption to the existing vegetation and the impact to the slopes over 30%.

Mr. Jensen made a motion to amend the original variance as shown on the new site plan, acknowledging the comments made at the original meeting, and requiring that the applicant remediate the areas that have been disturbed on the north side of the home, and place erosion control devices on the disturbed areas. Mr. Knight seconded that motion. Voting was unanimous.

4. Approval of the Conditional Use Permit letter in written form, to allow for a Dinning Club / Tavern business at 1025 South 500 West, applicant, Wendi Lund/Moxi Restaurant.

Mr. Jensen noted that Condition #4 was struck from the motion and it was added that the business had to operate with accordance with State regulations.

Marc Knight made a motion to approve the Conditional Use Permit letter in written form as amended for Moxi Restaurant located at 1025 South 500 West. Mr. Jensen seconded the motion. Voting was unanimous in favor.

There were no other comments and the meeting adjourned at 6:59 p.m.